

STATEMENT OF RICHARD T. WEBB
RELATING TO AMENDMENTS TO CHAPTERS 37 AND 37A, PUBLIC HEALTH
REGULATIONS, PRESENTED TO DEPARTMENT OF HEALTH, STATE OF
HAWAII, AT PUBLIC HEARING IN COUNTY COUNCIL ROOM, HILO, HAWAII
AUGUST 3, 1973

My name is Richard T. Webb. I am representing the Hilo Coast Processing Company in my capacity as Assistant to the President for Environmental and Technical Affairs.

The proposed amendments to Chapters 37 and 37A of the Public Health Regulations of the State of Hawaii are substantial. Indeed, the changes are so great that it appears that some sections are in direct conflict with the enabling legislation and statutes of the State of Hawaii.

We recognize and encourage the intense effort on the part of the State to assume the responsibility for control of water pollution and water quality. At the same time we urge that the State stand firm for regulations and criteria which are appropriate to Hawaiian conditions and to the laws of Hawaii. The rights of the State of Hawaii and its citizens in these regulatory matters should not be sacrificed for the sake of expediency in obtaining Federal approval and funding.

In the interests of saving time at this hearing, I propose not to go into a detailed analysis of the proposals, but to mention a few of the items and respectfully request that we be permitted to furnish appropriate additional written comments later but before the record is closed.

First, we note that Part III, Section 31, paragraph 6 of Act 100 of the Session Laws of Hawaii, 1972, defines "State Waters" as, "all waters,

fresh, brackish or salt, around and within the State, including, but not limited to, coastal waters, streams, rivers, drainage ditches, ponds, reservoirs, canals, and lakes; provided that drainage ditches, ponds and reservoirs required as part of a pollution control system are excluded. " We find that the last portion of this definition, beginning with the words "provided that" has been deleted from the proposed Chapter 37. We believe that the validity of such deletion of phraseology of the statute is questionable and that the total definition of "State Waters" as expressed by Act 100 of the 1972 Session Laws should be used in Chapter 37. It is obviously impractical to apply water quality standards to water in process in a sewage treatment plant or other water treatment plant.

Second, Section 16 of the proposed amendments to Chapter 37, which relates to revocation of NPDES permits is too loosely written in paragraphs 16 (a) (1) and 16 (a) (5) in that revocation can occur for any violation of the permit, whether willful or not, and revocation can also occur for violation of any rule or regulation of the Department of Health, whether it relates to water pollution or not. We assume that the intent of the proposed Chapter 37 is not as is indicated in these paragraphs and recommend that they be changed.

Third, Section 20 of the proposed regulation, which concerns effluent limitations in NPDES permits, is unrealistically stringent in requiring average and maximum daily limitations. This requirement far exceeds the requirements of the EPA itself, which also recognize a need for monthly and annual averages as practical control measures. We recommend that this first sentence of

Section 20 be changed to permit the director a reasonable amount of flexibility in this matter. Changing the word "shall" in this sentence to the word "may", as it is in the second sentence of Section 20 is recommended as a minimum revision.

Fourth, Section 6 of the proposed Chapter 37-A, entitled Water Quality Standards, still contains standards that appear to bear little resemblance to reality. For example, paragraph 6 B. 3. relating to nutrients calls for total phosphorus not greater than 0.025 mg/l in Class A waters. For nearly two years, we have sampled quarterly the waters one mile or more off the Hilo/Hamaku coast of the island of Hawaii and find a range of total phosphorus from 0.003 mg/l to 0.042 mg/l in the [?]pristine waters of the open ocean. Five of these 11 samples in their natural pristine state exceed the proposed standard for total phosphorus. We urge the State to use the data from the University of Hawaii and from its own records to establish realistic water quality parameters. An unrealistic standard that cannot be reasonably achieved will defeat the purpose of water pollution abatement legislation.

Fifth, Section 7 of Chapter 37-A, relating to Zones of Mixing, has been completely re-written. The original intent of the statute which had Zones of Mixing as a classification for certain waters has been overturned and Zones of Mixing are now to be treated as variances. Further, the new Section 7 appears to have been influenced by the EPA to the extent that the EPA is assuming powers never authorized by the Congress or any other legislative body. We strongly

urge that the original intent of the legislature of the State of Hawaii be retained in Section 7 of Chapter 37-A and that the proposed changes be substantially modified or deleted and that Section 7 be rewritten.

This completes my testimony. Thank you.